

CC:DOM:IT&A:TR-45-460-95  
Br.2:GCHorton

JUN - 9 1995

Director, Resourcing Core Business System and  
Integration M:R

Assistant Chief Counsel (Income Tax & Accounting)

Energy Policy Act of 1992 - Taxability of Travel  
Reimbursements for Indefinite Travel Assignments

This responds to your memorandum of March 7, 1995, to the Office of the Assistant Chief Counsel (Income Tax & Accounting). The memorandum concerns the taxability of travel expense reimbursements in light of the 1-year rule of § 162(a) of the Internal Revenue Code, as added by the Energy Policy Act of 1992.

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~~The legal issues raised by your inquiry were previously~~ addressed by this office in a memorandum dated May 4, 1995, to Chief, Resourcing and Core Business System Reengineering M:R:CBS (copy attached). The memorandum was pursuant to a telephone conversation between Charlie Garofalo and David A. Schneider (CC:DOM:IT&A:2). The May 4 memorandum does not address the additional facts presented in your March 7 memorandum that are set forth below. However, we note that these additional facts do not in any respect vary the statements in our May 4 memorandum.

In the March 7 memorandum, you state that a Resourcing Core Business System has established project teams to analyze and reengineer Management and Administration (M&A) business processes. The teams are made up of National office and field subject matter experts and M&A customers. The projects are of indefinite duration. However, the work of the project teams is completed in discrete phases.

The initial design phase (phase 1) lasts approximately 90 to 120 days, at the end of which time the project team members return to their regular posts of duty. In the implementation phase (phase 2) the project design is tested and prototyped in various IRS offices throughout the country. This second phase may last up to several years because the project is prototyped in sequential "releases" (each release builds upon the one before it). The period of time between phase 1 and phase 2 varies, since the project design is subject to executive approval before implementation begins. The period of time between each release also varies, since each release is subject to evaluation and approval before the next release begins.

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## Director. Resourcing Core Business System and Integration

In order to implement the project design, the project team members travel to a number of different locations for periods ranging from a few days to several months. During periods of project inactivity or when their particular expertise is not required, the team members return to their regular posts of duty. While the employees are not expected to be in travel status for more than 365 consecutive days, the total days in travel status during the life of the single project may exceed 365 days.<sup>1</sup>

We wish to emphasize that the fact the employee is working on a single project is irrelevant to the consideration whether that individual is employed away from home "in a single location" for purposes of applying the 1-year rule. As noted in the May 4 memorandum, what is relevant is that the employee works in multiple locations. Mr. Horton of this office discussed this point in a telephone conversation on May 31 with Mr. Garofalo.

In conclusion, please feel free to apply the reasoning in Mr. Schneider's memorandum to the reimbursed travel expenses of ~~the project team employees.~~

We appreciate the opportunity to comment on your March 7 memorandum. If you have any further questions regarding the 1-year rule, you may contact Channing Horton or David Schneider at (202) 622-4920.

Sincerely yours,

Assistant Chief Counsel  
(Income Tax & Accounting)

By (signed) Robert A. Berkovsky  
Robert A. Berkovsky  
Chief, Branch 2

## Attachment:

Copy of May 4, 1995, memorandum

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<sup>1</sup> Additional information submitted on April 21, 1995. shows